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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,491	08/29/2001	William Teague	09857-042001	6239

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EXAMINER

MEINECKE DIAZ, SUSANNA M

ART UNIT	PAPER NUMBER
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3694

MAIL DATE	DELIVERY MODE
07/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

37 CFR § 1.105 - Requirement for Information

1. Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

2. The information is required to identify products and services embodying the disclosed and claimed subject matter and identify the properties of similar products and services found in the prior art. The Examiner has located information on the U.S. Securities and Exchange Commission's web site regarding electronic communication networks (ECNs) and after-hours trading (<http://www.sec.gov/news/studies/ecnafater.htm>). This special study explains how Nasdaq® (the assignee of the instant application) is involved with a pilot program for extended-hours trading. Page 22 of the printed version of the web site also mentions that special rules are being considered by Nasdaq® for extended-hours trading. Since this disclosure was made public more than one year prior to Applicant's earliest priority date of August 29, 2001, the Examiner requests information regarding the contents of this pilot program. What are the differences, if any, between Nasdaq®'s pilot program and the claimed invention? Also, who are the inventors of Nasdaq®'s pilot program? Additionally, it is respectfully requested that Applicants and Assignee provide any information regarding products or services offered by other entities (e.g., inventors or assignees) that are related to the claimed invention of tracking index prices based on after or extended hour trading. Further, did the Securities and Exchange Commission

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implement any rules that required changes to be made in how after hours trades affect an opening index price, as recited in the claimed invention? How were after hours trades previously handled?

The Examiner has also come across Nasdaq®'s index descriptions in the web site, <http://quotes.nasdaq.com/reference/IndexDescriptions.stm>. On page 5 of the printed version of this web site, there is a section entitled "NASDAQ Index Calculation Description." How do these formulas relate to the claimed invention and, if related, when were these calculations first publicly used or disclosed and who invented or derived them? Are the claimed calculations derived from well-known portfolio calculations?

Nasdaq®'s web site <URL:

http://dynamic.nasdaq.com/dynamic/nasdaq100_indicator_after.stm describes the NASDAQ-100 After Hours IndicatorSM, which allows after-hours trades to be tracked in order to glean a trend for market sentiment and allows bad trades to be filtered out of the calculations. These features seem to represent the underlying concepts in the claimed invention. The article "This Dinner Theater Features Tragedies" (Hansard et al.) also discloses the Nasdaq-100 After Hours Indicator as well as its precursor, the Nasdaq-100 Pre-Market Indicator. How do both the Pre-Market Indicator and After Hours Indicator relate to or differ from the claimed invention? When were these products first publicly used, sold, and disclosed? Who invented these indicators? Are there any other similar products or services in the market known to Applicants or Assignee?

The Examiner has not been able to locate information in the prior art regarding the disclosed and claimed "predicated opening index price." Please provide background information on what is meant by a "predicated opening index price."

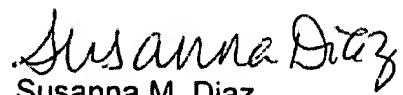
3. The fee and certification requirements of 37 C.F.R. § 1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those documents within the scope of this requirement under 37 C.F.R. § 1.105 that are included in the applicant's first complete communication responding to this requirement. Any supplemental replies subsequent to the first communication responding to this requirement and any information disclosures beyond the scope of this requirement under 37 C.F.R. § 1.105 are subject to the fee and certification requirements of 37 C.F.R. § 1.97.
4. The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR 1.56. Where the applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained will be accepted as a complete response to the requirement for that item.
5. This requirement is subject to the provisions of 37 C.F.R. §§ 1.134, 1.135 and 1.136 and has a shortened statutory period of TWO (2) months. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Susanna M. Diaz
Primary Examiner
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July 22, 2007